

**2013 DRAFTING REQUEST**

**Bill**

Received: **5/22/2013** Received By: **tkuczens**  
Wanted: **As time permits** Same as LRB:  
For: **Sandy Pasch (608) 266-7671** By/Representing: **Fred Ludwig**  
May Contact: Drafter: **tkuczens**  
Subject: **Courts - evidence** Addl. Drafters:  
Extra Copies:

Submit via email: **YES**  
Requester's email: **Rep.Pasch@legis.wisconsin.gov**  
Carbon copy (CC) to: **tracy.kuczenski@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Inadmissibility of statement of apology

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tkuczens 5/22/2013	jdye 5/23/2013	jfrantze 5/23/2013	_____			
/1				_____	sbasford 5/23/2013	sbasford 7/18/2013	

FE Sent For:

<END>

*Not  
Needed*

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/?	tkuczens	1 5/23 jld		5/23			

FE Sent For:

<END>

**Kuczenski, Tracy**

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**From:** Ludwig, Frederic  
**Sent:** Tuesday, May 21, 2013 11:49 AM  
**To:** Kuczenski, Tracy  
**Subject:** RE: LRB 13s0057 Topic: Inadmissibility of statement of apology

Sorry to bother on this again – can I get the sub drafted as a bill?

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**From:** Ludwig, Frederic  
**Sent:** Tuesday, May 14, 2013 9:39 AM  
**To:** Kuczenski, Tracy  
**Subject:** RE: LRB 13s0057 Topic: Inadmissibility of statement of apology

Per the countless headaches I've caused you over the last few years, I do what I can to make your life easy when possible ☺

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**From:** Kuczenski, Tracy  
**Sent:** Tuesday, May 14, 2013 9:38 AM  
**To:** Ludwig, Frederic  
**Subject:** RE: LRB 13s0057 Topic: Inadmissibility of statement of apology

It was something easy to do in an otherwise complicated day...

Tracy K. Kuczenski  
*Legislative Attorney*  
Wisconsin Legislative Reference Bureau  
[tracy.kuczenski@legis.wisconsin.gov](mailto:tracy.kuczenski@legis.wisconsin.gov)  
(608) 266-9867

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**From:** Ludwig, Frederic  
**Sent:** Tuesday, May 14, 2013 9:37 AM  
**To:** Kuczenski, Tracy  
**Subject:** RE: LRB 13s0057 Topic: Inadmissibility of statement of apology

You're too kind.

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**From:** LRB.Legal  
**Sent:** Tuesday, May 14, 2013 7:44 AM  
**To:** Rep.Pasch  
**Subject:** LRB 13s0057 Topic: Inadmissibility of statement of apology

The attached proposal has been jacketed for introduction.

A copy has also been sent to: [tracy.kuczenski@legis.wisconsin.gov](mailto:tracy.kuczenski@legis.wisconsin.gov)



State of Wisconsin  
2013 - 2014 LEGISLATURE

LRB-2424/1



LRBs0057/1

TKK:jld:rs

RMNR  
insert

ASSEMBLY SUBSTITUTE AMENDMENT

TO ASSEMBLY BILL 120

2013

5/22/13

wanted ~~MAJOR~~

or if possible  
§ by 5/24 1 5/23 3

Regen

1 AN ACT *to create* 904.14 of the statutes; **relating to:** inadmissibility of a  
2 statement of apology or condolence by a health care provider.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

3 SECTION 1. 904.14 of the statutes is created to read:

4 **904.14 Inadmissibility of statement by health care provider of apology**  
5 **or condolence.** (1) In this section:

6 (a) "Health care provider" has the meaning given in s. 146.81 (1) and includes  
7 an ambulatory surgery center.

8 (b) "Relative" has the meaning given in s. 106.50 (1m) (q).

9 (2) A statement, gesture, or the conduct of a health care provider<sup>✓</sup> or a health  
10 care provider's employee or agent, that expresses apology, benevolence, compassion,  
11 condolence, remorse, or sympathy to a patient or to his or her relative or

Insert analysis

1 representative is not admissible into evidence or subject to discovery in any civil  
2 action or administrative hearing regarding the health care provider as evidence of  
3 liability or as an admission against interest.

4 **SECTION 2. Initial applicability.**

5 (1) This act first applies to statements, gestures, or conduct that occur on the  
6 effective date of this subsection.

7 (END)

**2013-2014 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-2424/?ins  
TKK:.....

**INSERT ANALYSIS**

Under current law, certain types of evidence are not allowed to be admitted in a court action for various policy reasons. For example, evidence of remedial measures taken after an event occurred that would have made the event less likely is not admissible to prove negligence or culpable conduct in connection with the event. As another example, no written or oral communication relating to a dispute in mediation is admissible or subject to discovery in any judicial proceeding or administrative action.✓

This bill provides that a statement or conduct of a health care provider that expresses apology, benevolence, compassion, condolence, remorse, or sympathy to a patient or patient's relative or representative is not admissible into evidence or subject to discovery in any civil action or administrative hearing regarding the health care provider as evidence of liability or as an admission against interest.✓

(end ins)

**Basford, Sarah**

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**From:** Rep.Pasch  
**Sent:** Thursday, July 18, 2013 12:54 PM  
**To:** LRB.Legal  
**Subject:** Draft Review: LRB -2424/1 Topic: Inadmissibility of statement of apology

Please Jacket LRB -2424/1 for the ASSEMBLY.